

For example, many industry observers are concerned that when News Corporation's substantial programming assets are combined with DIRECTV's distribution platform, News Corporation will gain the leverage to raise the price of its programming to all distributors, causing consumers' cable and satellite bills to rise. Others question whether other cable or satellite distributors that are not affiliated with content providers will be able to fairly compete with the combined News Corporation/DIRECTV. Additionally, questions have been raised about the effect of the acquisition on the barriers that any new programmers and distributors would face in attempting to enter the programming and/or MVPD markets.

In answering these questions it will be important to look at whether News Corporation will make its content available on a non-discriminatory basis to other distributors; in the course of that examination your agencies should weigh appropriately News Corporation's pledge to make "programming available to all multi-channel distributors on non-discriminatory prices, terms and conditions," and consider as well its decision not to apply this pledge to its broadcasting properties. Similarly, it is important to examine the possible benefits of News Corporation's pledge "to open the DIRECTV platform to all competing programmers" and the potential competitive value of any new services a combined News Corporation/DIRECTV may be able to offer. Clearly it is important for your agencies to determine if the acquisition will enhance DIRECTV's ability to compete in the MVPD market.

Finally, we believe that your review should consider whether this acquisition will trigger additional transactions in the media marketplace and the effect of any further consolidation in light of the recent FCC relaxation of the media ownership rules.

Maintaining robust competition in the media is a priority for the Antitrust Subcommittee. We strongly believe that competition in the media is essential to ensure the diversity of expression in both news and entertainment that we all value. Accordingly, we urge that both of your agencies thoroughly review the implications of this merger, and its likely impact on competition.

Thank you for your attention to this matter

Very respectfully yours,



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Antitrust, Competition Policy, and
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